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JOSEPH F. SPAN

89-408
No.

In The
SUPREME COURT OF THE UNITED STATES
Term, 1989

Mrs. Carolyn V. Joyce
Appellant

v.

Hon. Bob Casey, Gov.
Commonwealth of Penna.
Appellees
v.

Hon. Donald Schaefer, Gov.
State of Maryland
Appellees

Petition for Writ of Certiorari

On Appeal from the United States Court
of Appeals for the Third Circuit

Mrs. Carolyn V. Joyce
P.O. Box 14676
Philadelphia, PA 19134
Appellant

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QUESTIONS PRESENTED FOR REVIEW

(1) Does the 11th Amendment to the Constitution of the U.S.A. preclude U.S. citizens of their rights and protection under said Constitution: (2) Therefor, government employees have unrestricted powers to deprive U.S. citizens of those same rights and protection of U.S. Constitution and the respective State Constitutions; (3) Thereby those same government employees have total disregard not only of the U.S. Constitution but their own State Constitutions as well; (4) Thereby those same government employees have assumed dictatorial powers and can do no wrong?

JURISDICTIONAL STATEMENT

The jurisdictional of the United States Supreme Court is based on the U.S. Constitution as written by the originators of the Constitution at the time of the inception of the U.S. of America at the time of the American Revolution, which guaranteed the rights and protection of its citizens when it declared itself independent of England and the crown which deprived "we the people" of justice and their God-given rights.

Re: Docket No. 89-1158 (Order 5/12/89)
Joyce v. Casey v. Schaefer
D.C. CIV. No. 88- 7099(Order 2/2/89)

Error of courts' decisions are based on 11th Amendment's interpretation, and without regard also to PA's Constitution which states Revenue matters can only originate in the PA's House of Representatives.

this means that all the rights and privileges a U.S. citizen enjoyed under the U.S. Constitution, including the Bill of Rights ("We the people..." are null and void, and what exists now is the same as under the King of England which caused the American Revolution.

Maryland and Pennsylvania entered into an agreement which deprived U.S. citizens of their Constitutional rights. There is no record that the people of the respective states, or any state for that matter, had a chance to vote to change the Constitution of the U.S., with a/ arm of Congressional approval that would give any state to make treaties or agreements(e.g. Germany VW plant in Pittsburgh, and Japan's auto plant near Phila./ why hasn't this so-called agreement submitted to the court..? why didn't the courts ask for the agreement?

Furthermore, since states have been making agreements with each other, what is to prevent them from seceding from the Union as did the 11 southern states? Who will fight the war?

What is at issue? I worked both in Maryland and Pennsylvania, and at the same time I lived in the respective states in 1982-83. Pennsylvania cites the agreement that they do have the right to double taxation the mere fact that I lived in Pennsylvania a portion of each year. What else was I supposed to do - go on welfare and drain their budget? If I had, this case would never exist. Pay taxes to both MD & PA for what I earned in each - double taxation. Strange isn't it when PA says it gives credit for payment of taxes in another state? Why the double standard?

View from the Bench - Judge Joseph A. Wapner states "anyone who knows the history of this country, 'law and order' begins with everyone following the Constitution-and I mean everyone, from policemen to presidents."

"Under the Constitution, the citizens of America are guaranteed certain vital rights as free people. The Fourth Amendment to the Constitution provides for one of the most basic rights."

"These are not empty words. They tell Americans that no one, not police or FBI or anyone, can lawfully disturb their peace and security..."(end of Judge's View)

In addition "Sec. 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

Amend. I "...and to petition the Government for a redress of grievances."

Amend. V. "...nor be deprived of life, liberty, or property without due process of law..."

Amend. VIII "...nor excessive fines imposed, nor cruel and unusual punishment inflicted."

Who are these employees-state employees-that have taken upon themselves dictatorial powers that were never granted by the Constitution? (either U.S. or State Constitution)

Counsels have been served.

Mrs. Carolyn V. Joyce, Appellant

APPENDIX

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CAROLYN V. JOYCE : CIVIL ACTION

v. : Feb.9, 1989

HON.BOB CASEY,GOV.
State of Pennsylvania and
HON. DONALD SHAEFER,GOV.
State of Maryland : NO 88-7099

ORDER

AND NOW, this 2 day of Feb., 1989 the motions of defendants,"Hon. Bob Casey, Gov. State of Pennsylvania, and Hon. Donald Shaefer, Gov. State of Maryland," to dismiss the complaint, Fed. R. Civ. P 12(b)(1), are granted.

The pro se complaint of plaintiff Carolyn V. Joyce alleges that she is a Pennsylvania citizen. It asserts that she did not receive credit on her 1982 Pennsylvania state income tax return for income taxes paid to the State of Maryland where she resided and worked during part of the year. It challenges Pennsylvan-

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ia's tax deficiency assessment. Its claim against the State of Maryland is based on a notice from Pennsylvania "that if any refund is due, the taxpayer must request it from Maryland." complaint par6

The Eleventh Amendment states:

> The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by Citizens or Subjects of any Foreign State.

Where a governor is sued in his official capacity, the state is considered the party of record. Quern v. Jordan, 440 440 U.S. 332, 345-46 n. 17, 99 S.Ct.1139, 1148 n. 17, 59 L.Ed.2d 358 (1979); Savage v. Com. of Pennsylvania, 475 F. Supp.524 531 (E.D.Pa. 1979). Although the complaint names the Governors of Maryland and Pennsylvania as defendants, the suit is for a refund of state income taxes.

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Inasmuch as a suit to recover state taxes is unquestionably against the state, it is subject to the Eleventh Amendment. Ford Motor Co. v. Dept of Treasury, 323 U.S. 459, 463, 65 S.Ct 347, 350, 89 L.Ed. 389 (1945); Rutledge v. Arizona Bd. of Regents, 660 F. 2d 1345, 1349 (9th Cir. 1981), aff'd, 460 U.S. 719 (1983).

While the Eleventh Amendment does not so provide, an unconsenting state, by implication, has been held to be immune from suits brought in federal court by its citizens as well as by citizens of another state. Edelman v. Jordan, 415 U.S. 651, 662-63, 94 S.Ct. 1347, 1355, 39 L.Ed.2d 662 (1974); Employees of Dept. of Public Health and Welfare, Missouri v. Dept. of Public Health and Welfare, Missouri, 411 U.S. 279, 280,

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93 S.Ct. 1614, 1616, 36 L.Ed.2d 251(1973).

Accordingly, plaintiff cannot pursue an action against the State of Maryland or the Commonwealth of Pennsylvania in federal court.

(s)
Edmund V. Ludwig,J.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 89-1158

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JOYCE, CAROLYN V.,
Appellant

vs

CASEY, HON. BOB,
Gov. Commonwealth of PA,
SHAFFER, HON.
Gov. State of Maryland

On Appeal From the United States District Court For the Eastern District of Pennsylvania(D.C.Civil Action No.88-7099)
District Judge, Honorable Edmund V.Ludwig

Submitted May 9, 1989

BEFORE: STAPLETON,GREENBERG, and SCIRICA,
Circuit Judges

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JUDGMENT ORDER

After consideration of the contentions raised by appellant, it is

ORDERED AND ADJUDGED that the judgment of the district court be and is hereby affirmed.

Costs taxed against appellant.

By the Court,

(s) Walter Stapleton
Circuit Judge

ATTEST:

(s) Sally Mrvos
Clerk

Dated: MAY 12, 1989

Costs taxes in favor of Gov.Casey as follows:

Brief.....$ 95.00

Suppl. Apndx..$100.00
TOTAL.....$195.00

Certified as a true copy and issued in lieu of a formal mandate on July 7, 1989

Test: (s) M. Elizabeth Ferguson

Chief Deputy Clerk, United States Court of Appeals for the Third Circuit

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